

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

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) Case No. 19-30088

) Chapter 11

)

) San Francisco, California

) Tuesday, December 21, 2021

) 10:00 AM

)

REORGANIZED DEBTORS' SEVENTY-SIXTH OMNIBUS OBJECTION TO CLAIMS (NO LIABILITY / PASSTHROUGH CLAIMS) FILED BY PG&E CORPORATION [10537]

REORGANIZED DEBTORS' ONE
HUNDRED TENTH OMNIBUS
OBJECTION TO CLAIM NOS. 76018
AND 78381 (GREENBERG CLAIMS)
FILED BY PG&E CORPORATION
[11420]

SCHEDULING CONFERENCE AS TO
TODD GREENBERG RE CLAIM NO.
77335 [9455]

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DENNIS MONTALI
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES (All present by video or telephone):

For Reorganized debtors: THOMAS B. RUPP, ESQ.

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1 For Todd Greenberg: RICHARD A. LAPPING, ESQ.
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5 Also Present: Juli Ward
Individual Claimant

6 Ora and Willie Green
7 Individual Claimants

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PG&E Corporation and Pacific Gas and Electric Company

1 SAN FRANCISCO, CALIFORNIA, TUESDAY, DECEMBER 21, 2021, 10:00 AM

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3 (Call to order of the Court.)

4 THE CLERK: Court is now in session, the Honorable
5 Dennis Montali presiding, calling the matter of PG&E
6 Corporation.

7 I'll bring counsel in now.

8 Your Honor, which matter did you want to call first?

12 Good morning, Mr. Rupp. You've got your mic muted.

13 MR. RUPP: Good morning, Your Honor. Thomas Rupp of
14 Keller Benvenutti Kim for the reorganized debtors. Can you
15 hear me all right?

16 THE COURT: Yes, I can. Can you hear -- how about me?

17 MR. RUPP: I hear you just fine.

18 THE COURT: We've got the Greenberg claims, that Green
19 claim, and Ms. Ward. So what's your preference?

20 MR. RUPP: Your Honor, our preference would be to go
21 Green, and then Ward, and then Greenberg, where my cocounsel,
22 Jennifer Dodge, can join me. But of course, if the Court would
23 rather take it some other way, we're happy to do it that way.

24 THE COURT: No, I offered you the choice. So let's do
25 it.

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1 Ms. Parada, do we have Ms. Green available?

2 THE CLERK: I do not see Ms. Green yet.

3 THE COURT: Ms. Green, or anyone appearing on her
4 behalf, if you wish to be heard this morning, you need to
5 raise your hand electronically.

6 Well, Mr. Rupp, did you get the filings that Ms. Green
7 made yesterday?

8 MR. RUPP: I did, Your Honor. I just saw the -- there
9 was a statement on the docket, and some exhibits just arrived
10 this morning. They looked like -- I'm not sure why they came
11 separately, but I did have a chance to look at them briefly.

12 THE COURT: Okay. All right.

13 Ms. Parada, I guess we'll pass on Green for a couple
14 of minutes and see if she shows up. If not --

15 THE CLERK: Yes, Your Honor.

16 THE COURT: -- I don't know what we're going to do.
17 But let's go to the Ward matter.

18 THE CLERK: Yes, Your Honor. I'll bring in Ms. Ward
19 now.

20 THE COURT: Hi, Ms. Ward. Good morning. Can you hear
21 me? You don't have -- your microphone is muted. There you go.
22 Can you hear me now?

23 MS. WARD: Yes, Your Honor. Yes. Thank you.

24 THE COURT: All right. Your claim is kind of a
25 mystery to me because you act on behalf of a number of other

PG&E Corporation and Pacific Gas and Electric Company
1 people, but you're not an attorney, are you?
2 MS. WARD: No, sir.
3 THE COURT: And you don't -- do you have any liability
4 to the other claimants?
5 MS. WARD: No, sir.
6 THE COURT: Well, I don't know what you think you're
7 able to do to assert claims on their behalf. Why do you think
8 you should be allowed to do that?
9 MS. WARD: For their support of what I was going
10 through --
11 THE COURT: Well, no, I understand --
12 MS. WARD: -- monetarily.
13 THE COURT: -- they support it. I don't question that
14 they support it, but legally, if I were to award you any
15 recovery, why would it be for them?
16 MS. WARD: Because those entities helped me when they
17 could have been using those funds to assist other people.
18 THE COURT: Okay. I understand, but the point is you
19 didn't -- you're not obligated to repay them, right?
20 MS. WARD: No, sir, I'm not.
21 THE COURT: Okay. Well, I think that whatever
22 happened in the past and whatever assistance you got from third
23 parties, that is good for you. And they should be
24 complimented, and I'm sure you've thanked them. But legally, I
25 don't think there's anything that can be done. I mean, if you

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1 had a legal argument or something, I would --

2 MS. WARD: Okay.

3 THE COURT: -- obviously listen to that. But let's
4 focus on the portion of the claim, which is a relatively small
5 portion, that you believe you are entitled to. What is your
6 response to PG&E's argument that when the procedure or the
7 program was implemented, and this other company, Highland, came
8 in, you signed a release of any claims against PG&E; what am I
9 supposed to make of that?

10 MS. WARD: That was for the damages caused by Highland
11 Energy, which I have not claimed that, sir.

12 THE COURT: But you have a right to sue Highland or
13 would have maybe had a right to proceed against Highland.
14 Yeah, but I take it you haven't done that.

15 MS. WARD: No, sir, for the reason that I was
16 instructed, along with my landlord, prior to the work being
17 done, was that we had to authorize PG&E to do an inspection or
18 we can opt to have Highlands Energy inspect their own work. I
19 opted for PG&E to inspect the work because I didn't feel it'd
20 be advantageous to have one company inspect their own work.

21 THE COURT: Mr. Rupp filed a support and paper,
22 though, that indicated that you waived any (audio interference)
23 PG&E by even undertaking participation in this assistance
24 program. So what do you make of that?

25 MS. WARD: Well, they --

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1 THE COURT: How do I ignore that?

2 MS. WARD: Well, they failed to --

3 THE COURT: No, you --

4 MS. WARD: -- fulfil the terms of their contract --

5 THE COURT: I understand --

6 MS. WARD: Oh, excuse me.

7 THE COURT: I understand you're not a lawyer, and I'm
8 not trying to put you at a disadvantage because of that, but
9 what do I make of a document that you signed that says to PG&E
10 I waive any claim against you?

11 MS. WARD: But they didn't come and do their work.

12 THE COURT: No --

13 MS. WARD: So I couldn't have anything against them.

14 THE COURT: No. No, they didn't come and inspect the
15 work --

16 MS. WARD: Correct.

17 THE COURT: -- according to you. But in fact, and in
18 reality, Highland did the work, right, and perhaps incorrectly,
19 but Highland did the work.

20 MS. WARD: Yes, sir.

21 THE COURT: But you didn't pursue any claim against
22 Highland.

23 MS. WARD: I didn't see any damage by Highland.

24 THE COURT: Well, what damage have you suffered as a
25 result of whatever happened?

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1 MS. WARD: When I first moved into this property in
2 2016, I was moving in over a period of a month, a month-and-a-
3 half --

4 THE COURT: No, I understand. And your --

5 MS. WARD: Okay.

6 THE COURT: -- bills were high because you were in two
7 locations. I understand.

8 MS. WARD: Okay. And I reached out to PG&E numerous
9 times: could someone please come and do some kind of a study
10 on my energy efficiency here? I wanted to know where I was
11 losing some -- maybe in the property not being sealed properly,
12 or whatever, and they said they really didn't have a program
13 for that at the time. And then it was later that they did have
14 this energy assistance program that I became aware of, and I
15 actively pursued with my landlord to get some upgrade work
16 done, and we were told that PG&E would inspect the work. Or,
17 you know, I could --

18 THE COURT: Slow down. You can't inspect the work
19 until the work is done. So who told you who would do the work?

20 MS. WARD: Highlands Energy.

21 THE COURT: Right. So someone said that Highland
22 Energy -- and you keep repeating that PG&E didn't inspect the
23 work, but the question is does that mean PG&E is liable for the
24 defective work? Why do you translate: they didn't inspect,
25 therefore they're liable? Why does that follow?

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1 MS. WARD: How could they know that some of the issues
2 that I've had since then, with utility bills and other issues
3 with the HVAC system, they never inspected it; how could they
4 know that the work was done properly as contracted?

5 THE COURT: But don't you believe it was done
6 improperly?

7 MS. WARD: I don't know, I'm not -- I'm not an attic
8 technician. I did not crawl up in the crawl space to see the
9 defects.

10 THE COURT: So what if PG&E went in and inspected now
11 and said everything was done correctly, then what? Then where
12 are we?

13 MS. WARD: Well, then I'd know, okay, it's done;
14 great, super.

15 THE COURT: But you don't --

16 MS. WARD: I asked --

17 THE COURT: But you don't believe that, do you? You
18 don't believe --

19 MS. WARD: If they want to come inspect, that's fine.
20 I've been wanting them to inspect the work, as Highland Energy
21 did work, that's all.

22 THE COURT: Okay. So let's go in, and we've got two
23 choices. PG&E sends a technician and they inspect. The
24 technician says the work was done incorrectly, or the
25 technician says the work was done correctly. Two choices.

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1 MS. WARD: Okay.

2 THE COURT: What follows from either of those? Let's
3 say you're presented with either of those two choices;
4 therefore, what follows? What --

5 MS. WARD: My satisfaction, knowing the truth.

6 THE COURT: No, let's take the first example. The
7 first example is the inspection says Highland messed up --

8 MS. WARD: Okay.

9 THE COURT: -- period. So what follows next?

10 MS. WARD: Pursuing a remedy.

11 THE COURT: Well, you are trying to pursue a remedy
12 against PG&E, but if PG&E comes in and says the work was done
13 correctly --

14 MS. WARD: Okay.

15 THE COURT: -- then you don't really have a claim
16 against PG&E, right?

17 MS. WARD: No, then I'd have peace of mind knowing
18 that it was done correctly, that --

19 THE COURT: No, but I'm sorry. Excuse me; I misspoke.
20 What if PG&E says the work was done incorrectly? Then what
21 would you do?

22 MS. WARD: Well, then I would trust their word that it
23 was done incorrectly.

24 THE COURT: And not pursue a claim against Highland?

25 MS. WARD: I can't. I released them, right, for any

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1 damages.

2 THE COURT: Well, Ms. Ward, the point is you released
3 PG&E, I believe.

4 Mr. Rupp, I don't want to do all the talking. Tell me
5 why you believe Ms. Ward's claim should be disallowed.

6 MR. RUPP: Your Honor --

7 THE COURT: Apart from talking about -- I understand
8 we don't have to go into whether she can assert claims for
9 others. To some extent, she asserts some claim of her own, I
10 think.

11 MR. RUPP: Thank you, Your Honor. We feel that -- you
12 know, we covered this pretty thoroughly in our reply brief, but
13 just to restate what we talked about here today. There's no
14 concrete allegation.

15 First of all, there's the waiver, and PG&E agreed to
16 pay for this program so this work could be done by a
17 contractor. And in exchange for PG&E paying for this program
18 for customers such as Ms. Ward, they asked that claims against
19 PG&E be waived since Highlands Energy is the one doing the
20 work.

21 Second of all, it's not even really alleged in the
22 claim, and not here today, that Ms. Ward has suffered any
23 damages, that there has -- that even the work was done
24 incorrectly in the first place and she suffered some
25 hypothetical higher utility bills than she would have if

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1 Highland Energy had done the work correctly.

2 It's been -- since the work was done in 2017, Ms. Ward
3 mentions that she had the option of having Highlands Energy
4 inspect its own work. Highlands Energy did the work; they
5 should be able to stand beside it and inspect it on Ms. Ward's
6 request. But time has gone by, and Ms. Ward could have looked
7 at it herself, although I don't want to impose on her to climb
8 into some crawl space, but she is a tenant; she has a landlord
9 that can do this inspection or have this inspection done.

10 If there were actual damages here, it would be on Ms.
11 Ward to make some kind of showing, as opposed to just the
12 uncertainty and the peace of mind of wanting to know whether
13 the work was done properly.

14 THE COURT: Ms. Ward, let's go back and just be
15 practical for a minute, and forget bankruptcy and forget the
16 court and just forget -- and let's just talk, like, common
17 sense. If I -- and let's pick a different trade rather than
18 electricity and gas; let's say a plumber. So I call a plumber,
19 and I say, would you come and fix my sprinkler system? And so
20 the plumber comes and sends me a bill and says, okay, it's
21 fixed. And then the sprinkler system doesn't work correctly.
22 Do I call someone else? I could call another plumber. But
23 don't you think, intuitively -- and wouldn't you, intuitively,
24 go back to the first plumber and say you didn't do it
25 correctly; would you come and inspect your work and see what's

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1 wrong? And then if the first plumber says, no, I'm not going
2 to have anything to do with you, then maybe you call a second
3 plumber, and you come in and say to the second plumber, what's
4 wrong with this work that the first plumber did? Why isn't
5 that the normal person's response to a situation like this,
6 from your point of view?

7 MS. WARD: Because we were offered the option to have
8 PG&E inspect the work. And I know, having kids, you know, that
9 would be sort of like saying to my son, go mop the kitchen, and
10 then tell him to go back in and inspect it himself. Now, I'd
11 probably have a sibling go do it or some other --

12 THE COURT: No, you'd go in.

13 MS. WARD: -- entity --

14 THE COURT: No, that's easy, as a parent, and I am a
15 parent, you'd say mop the kitchen, get it right, or you can't
16 go out, or you can't watch TV, or you can't do something; go
17 mop the kitchen.

18 Look, Ms. Ward, I don't know what is behind this. I
19 understand you're entitled to peace of mind. It's the end of
20 2021. If there's something wrong with your electrical system,
21 or your heating system, or your monthly bills are too high, it
22 would seem to me that the first order of business is to get it
23 fixed, or for your landlord to get it fixed, not to go after
24 the big company to say you've got to come and inspect it, and
25 then telling me that, if they inspect it and say it's okay, you

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1 will have peace of mind. And if they inspect it and say it's
2 not okay, you know, you don't know what you'll do; maybe
3 you'll go after Highland.

4 The point is I have no choice here. I have to apply
5 the facts and the law, in this context, in this bankruptcy.
6 And you haven't stated a claim that can be translated to a
7 liability for PG&E, particularly in the face of two critical
8 facts: most of the claims are not even your claim, but
9 secondly, more important, you did sign a form that says I won't
10 sue PG&E.

11 Now, as a separate matter, and in terms of PG&E's
12 obligation to all of us, as customers in the world, in
13 California, to the extent that they have some ongoing
14 inspection responsibility, certainly you and I both know if you
15 had a gas smell in your kitchen, what are you supposed to do?
16 Call the fire department, or call PG&E, or both. And PG&E has
17 an obligation to come and inspect to see if there's a problem.
18 But to say that PG&E had an obligation to come and see if
19 Highland did its work correctly is a statement, and a
20 legitimate statement, but it doesn't translate to any legal
21 claim.

22 So I'm afraid I'm going to have to tell you that I'm
23 going to sustain PG&E's objection and disallow your claim, in
24 large measure, because it's not your claim at all; it's other
25 organizations that help you, whether it be your landlord or the

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1 other entities that are mentioned in the papers you're familiar
2 with.

3 But to the extent that you personally believe you are
4 entitled to some money recovery, and therefore your claim, your
5 remedy, in my opinion, would have been, and maybe still is, I
6 don't know, against Highland, but not against PG&E.

7 So I'm going to disallow your claim and sustain the
8 objection.

9 MS. WARD: Okay.

10 THE COURT: Also alerting you -- has alerted you to
11 the fact that you had filed this other document asserting that
12 you want to bring a class action. I don't believe you are
13 entitled or have any right to bring a class action. But in any
14 event, we don't have a procedure available in the bankruptcy
15 court to allow someone who wishes to file a class action to
16 have a waiver of any fee.

17 So my personal advice to you is don't pursue the class
18 action remedy. If, for some reason, you think you still want
19 to file a class action against PG&E, and if you choose to do it
20 in federal bankruptcy court, you'll need to pay a fee. But I
21 will warn you that, by virtue of my ruling that says you don't
22 have a claim, you probably don't even have any right to bring a
23 class action at this point.

24 If my decision is incorrect, and you believe that I'm
25 in error, you have a remedy through the legal system. But at

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1 least for now, the ruling of the Court will be that you don't
2 have a claim in the PG&E bankruptcy for these events that
3 occurred in 2017 that you described.

4 So I'm sorry to give you the bad news. You put in a
5 lot of effort. I can see a lot of energy and purpose, and I'm
6 not critical or faulting you personally. But based upon what
7 we've explored here, and what the papers indicate, there simply
8 is no basis to allow you a claim in the PG&E bankruptcy.

9 So if you have any other questions, I'll listen, but
10 other than that, I don't think it's appropriate.

11 MS. WARD: Yes. Yes, sir. You know, in relationship
12 to if I am representing these entities wrongly, I'm a member of
13 the Cheyenne Arapaho Tribe. I'm a member of Living Church of
14 God. Fresno EOC gave me their blessing and gave me all the
15 figures of what they helped me with. Mr. Arakelian, my
16 landlord, is all behind it, as is my brother, Larry Kaprielian,
17 the last one.

18 THE COURT: Your brother, your landlord, your church,
19 your tribe all have rights to file claims. They didn't. That
20 doesn't mean because you care about them, or they care about
21 you --

22 MS. WARD: Okay.

23 THE COURT: -- that you have the legal right to do it.
24 And this gets to --

25 MS. WARD: Okay.

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1 THE COURT: -- the question: they chose, again, for a
2 good cause, to help you, and that's fine. I'm glad they did.
3 And I'm glad that they're not looking to you to pay, and that's
4 good news for you. But it doesn't translate to you have a
5 right to assert a claim on their behalf. You're not a lawyer.
6 And as I say, you don't have to be a lawyer to be a plaintiff
7 in a class action, but you have to have a claim. And I'm, in
8 effect, saying that you don't have a claim.

9 So I'll leave it at that. I'm not trying to rub it
10 in. I wish it were a better result for you.

11 Mr. Rupp, I'll ask you to prepare a form of order that
12 refers to the reasons stated on the record that Ms. Ward's
13 claim is disallowed in its entirety and to serve it on her.

14 So Ms. Ward, you'll get a form of a written order in
15 the mail, and that'll trigger any rights you have.

16 MS. WARD: Okay. Your Honor?

17 THE COURT: Yes, ma'am.

18 MS. WARD: In reference to me being -- they said that
19 I refused to sign agreements. I have all the agreements that
20 they offered me where I've responded and signed. So I don't
21 know exactly which settlement agreement they said I refused to
22 sign. I have signed everything. And --

23 THE COURT: I'm only talking about whether you have a
24 claim.

25 Mr. Rupp, do you know what Ms. Ward is referring to?

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1 MR. RUPP: I don't, Your Honor. It might be related
2 to the -- I'm not sure.

3 THE COURT: Was this an attempt to have a settlement?

4 MS. WARD: Yes.

5 MR. RUPP: There --

6 MS. WARD: Yes.

7 MR. RUPP: There was an attempt --

8 THE COURT: Oh, okay.

9 MR. RUPP: -- to have a settlement, as we referenced
10 in our reply, but all I know is the settlement agreement, the
11 final agreement, was never signed. And also, Ms. Ward did
12 respond to the objection, so --

13 THE COURT: Ms. Ward, let me explain. I can't see
14 what you're holding up. But the way our legal system works,
15 when people come to the table, figuratively, and compromise
16 their positions, people like I generally don't have to be
17 involved. And we encourage settlements. And Mr. Rupp happens
18 to be the lawyer for the firm representing PG&E that's handled
19 a number of these, and so he's quite experienced with that.
20 And judges are paid and trained to make decisions, but one of
21 the things that judges love is when parties settle, in part,
22 because they are in charge of their own fate rather than
23 sometimes the cruel result of the legal system.

24 And so if there was an opportunity for PG&E to say we
25 will settle with you, Ms. Ward, on the following terms, and you

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1 passed up that chance, then PG&E is justified in pressing their
2 claim objection. And if PG&E agreed to settle, and you believe
3 you did settle, then the question I ask is, well, then why are
4 we even having this hearing today? And we shouldn't be having
5 this hearing if there was a consummated settlement.

6 Now, if you believe that there already was a
7 settlement, I encourage you to take it up, not with me, but
8 with Mr. Rupp. And Mr. Rupp knows me well enough, not
9 personally, but he knows the process of the Court, that if
10 there's been a mistake here, and there was a, I'll say, signed
11 settlement, an effective settlement, then Mr. Rupp knows that
12 it should have been put to bed as a settlement, not presented
13 to me as an argument that made me make a decision. It's not
14 that I'm afraid of making decisions; it's that I would rather
15 not make a decision if the parties can reach a consensual
16 resolution.

17 So, offline, if you believe that there was a
18 settlement, and you can persuade Mr. Rupp to go back and
19 revisit that, then fine; I welcome it for you. If you think
20 there really was a settlement, and he says, no, there wasn't,
21 then I will leave -- I can't give you legal advice on what you
22 ought to do next. Let's not worry about that for now. If you
23 believe there was an effective settlement, and you were misled
24 and should have had it buttoned up and signed and sealed, then
25 follow up on it, but not with me. Okay?

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1 MS. WARD: Okay.

2 THE COURT: All right.

3 MS. WARD: Thank you, Your Honor. I didn't feel that
4 there was a settlement. I had done a counteroffer. So I don't
5 want to pursue that, oh yes, it was settled, and, you know --

6 THE COURT: Okay.

7 MS. WARD: -- here's the agreement. So I'm not going
8 that route.

9 THE COURT: Okay. Well, then I appreciate that, Ms.
10 Ward. I thought you were telling me something different
11 and I'm --

12 MS. WARD: No.

13 THE COURT: -- and I'm not here to second guess and
14 to do a Monday morning quarterback and say, well, you should
15 have settled. It's not my (audio interference) to say it. And
16 I'll leave it at that. With that, I want to thank you for your
17 participation --

18 MS. WARD: Thank you.

19 THE COURT: -- and your effort and wish you happy
20 holidays. Thank you very much.

21 MS. WARD: Thank you, Mr. Rupp. And thank you, Your
22 Honor.

23 MR. RUPP: Thank you.

24 THE COURT: Thank you, Ms. Ward.

25 Okay. Ms. Parada, has Ms. Green shown up yet?

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1 THE CLERK: Yes, Your Honor. I'll bring her in now.

2 THE COURT: Okay. All right. Good morning, Ms.

3 Green. I can hear you, I think. Now you've got your mic

4 muted. Are you going to turn your camera on today or stay

5 behind the screen?

6 MS. GREEN: I'm here. I'm trying to turn the camera

7 on.

8 THE COURT: Okay.

9 MS. GREEN: Let me see. It's still not working.

10 Could I try to get this on a tablet? It says to use a

11 computer, but no --

12 THE COURT: Go ahead.

13 MS. GREEN: It's still giving the error messages. I

14 don't know if --

15 THE COURT: Go ahead. Give it a try.

16 Ms. Parada, does she have to log out or anything and

17 log back in?

18 MS. GREEN: I've just done -- I've just rejoined. No.

19 Okay. Let's see what it says. It says choose -- I'm going to

20 try something else. Settings, high definition. Okay. Can you

21 see me now?

22 THE COURT: No. I can hear you, though.

23 MS. GREEN: I don't know what -- it works from here.

24 THE COURT: If you don't mind that I can't see you, I

25 can hear you.

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1 MS. GREEN: Okay. I'm here.

2 THE COURT: So Ms. Green, you filed a number of papers
3 yesterday, and there was some confusion in my staff and I, but
4 we're all caught up with what you filed. There's some
5 duplication in what you filed.

6 But I guess, Mr. Rupp, we're still at the point where
7 the company wants to do the physical inspection, and Ms. Green
8 doesn't want to do it; is that where we are at the moment?

9 MR. RUPP: That's where we are, Your Honor.

10 THE COURT: Ms. Green, I don't know what to say to
11 you. The point is we've given you a lot of leeway, and I
12 continue to give you leeway, in terms of proving your case, but
13 PG&E has a right to prove its case too. And I think there's a
14 number -- sort of, all of us, as citizens and humans, are
15 dealing with the Coronavirus and the Omicron, and all the other
16 horrible things.

17 And I fully understand that you and your husband
18 don't want to put yourself at risk. But there has to be a way
19 to do it. And to me, there's an easy way to do it. And I
20 mean, I went back and looked at the pictures of your home. And
21 as I recall from the pictures, your entryway to your home is on
22 the left side of the garage. Do you have an electric garage
23 opener, or is it only a manual garage opener?

24 MS. GREEN: It's only manual.

25 THE COURT: But you can do it, right? I mean, can you

PG&E Corporation and Pacific Gas and Electric Company
1 open it from the inside?

2 MS. GREEN: Yes.

3 THE COURT: So it seems to me that the simple thing to
4 do here is to have an agreed time when the PG&E people come, an
5 agreed number, I think no more than three people, a date and
6 time when they come to your home, that perhaps by telephone or
7 cell phone or something, you have a contact person. When the
8 PG&E person is outside the door and the person calls you and
9 says I'm here, that you have an opportunity to open the door of
10 the garage, go back inside your house, or stand inside the
11 front door, or somewhere, just so you know what's going on.

12 And I can insist that the persons that show up from
13 PG&E do not enter your home, only in the garage and the
14 driveway, that they're masked, that they provide proof of
15 vaccination. And I think Mr. Rupp has already made it clear
16 that they won't physically do anything. They'll just visually
17 inspect your garage and driveway, which should probably take
18 thirty minutes.

19 And I don't see that that puts you or your family or
20 anyone else at risk. If you think it does, perhaps some other
21 person, a member of your family, or a friend or someone, could
22 simply -- you know, a younger person, that isn't in jeopardy
23 any more than most people, that could just do the same thing
24 you're doing. But I cannot tell PG&E, sorry, Ms. Green has
25 made a case, Ms. Green's assistant, whether he's an expert, Mr.

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1 Kisak, or whatever he is, he's made a case that PG&E can't
2 prove its own case.

3 So that's a long way of saying you're going to have to
4 accommodate PG&E for what I think is a reasonable inspection
5 and that it is not an intrusion into the privacy of your home
6 and is not to put you in any jeopardy because of the virus.

7 And if you're unwilling to do that, unfortunately, I
8 might have to just strike your claim, which I'd rather not do.
9 So --

10 MS. GREEN: Excuse me. May I say something, Your
11 Honor?

12 THE COURT: Of course. Yes, of course.

13 MS. GREEN: Did Mr. Rupp make you also aware that, all
14 the way back in 2017, that PG&E also had sent a representative?
15 This will be their second inspection, not the first; they came
16 again, and then they never came back afterwards.

17 THE COURT: Oh, I know that. You made it clear to me
18 in the papers. But Ms. Green, in 2019, PG&E filed bankruptcy.
19 And after that, you filed a claim, and that's how you and I
20 come to meet each other. And if PG&E had not filed bankruptcy
21 and you had never therefore done anything in court, at some
22 point you'd be out of luck because the time would have run. So
23 PG&E's bankruptcy provided a way for you to assert a claim.
24 And again, Ms. Green, I'm persuaded that you may have a very
25 valid claim of some amount, but PG&E has a right to disprove

1 PG&E Corporation and Pacific Gas and Electric Company
2 it, and I can't take away its options.

3 So the fact is the fact that what they did three years
4 ago or four years ago is irrelevant because you filed a claim,
5 and they have a right to defend the claim. So it comes down to
6 the simple matter, none of us, any of us want to be dealing
7 with this virus and all the risks that are involved. But that
8 doesn't mean the legal system suddenly gets one-sided for one
9 side versus the other.

10 And it's not -- this is not big corporation against
11 individual homeowner. It's PG&E has a right to at least
12 determine whether your claim should be honored. And I
13 understand, and I've encouraged you to try to settle, and you
14 have said you'd like to settle. And I want you to settle, but
15 I don't want to be publicly involved in what PG&E has offered
16 and what you have countered.

17 So look, it comes down to the simple matter that if
18 you say, no, I will not allow the property to be inspected,
19 then I have no choice but to disallow the claim. If you do
20 allow the property to be inspected, under circumstances that I
21 described or something similar, then PG&E will take a position,
22 and it will either agree or disagree about settling with you
23 then. And if that still doesn't work, then I will have a
24 trial. We will have a trial in court or on Zoom, and you will
25 be required to prove your case, and they will be obligated to
disprove your case. It's that simple. As much as I'd like you

1 PG&E Corporation and Pacific Gas and Electric Company
2 to reach a consensual resolution, I can't make PG&E pay more
3 than they've offered, and I can't make you accept less than
4 you've agreed to accept. Okay?

5 MS. GREEN: Um-hum. May I ask Your Honor a question?

6 THE COURT: That's my choice. That's my choice at the
7 moment. Yes. Go ahead, please.

8 MS. GREEN: Okay. Also there's the issue too where we
9 presented that report from Matthew Kisak. PG&E is saying that
10 because Matthew Kisak was not employed as in his usual
profession, that that report is invalid.

11 THE COURT: Ms. Green, that isn't what they said.
12 They've said Mr. Kisak doesn't work there now, and the company
13 is not in business. No one has asked that I disregard Mr.
14 Kisak's report. PG&E has said we want to get in and inspect it
15 ourselves. And that's the issue.

16 And so if PG&E goes and inspects it themselves (audio
17 interference), and then PG&E says, no, we still don't think we
18 have any liability, then I will make a decision on what proof
19 is what. And you know what I probably will want? I'll
20 probably want you to produce Mr. Kisak. Again, it's easy to do
21 it on Zoom rather than to pay him to come to San Francisco and
22 testify in a court. And I would probably have him show up on
23 Zoom and explain to me why he reaches the conclusions he did,
24 and let Mr. Rupp, or whatever lawyer is working, cross-examine
25 him and ask him what they want. And then I will make PG&E's

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1 expert explain why PG&E believes it doesn't have to pay. And I
2 will give you an opportunity, or anyone representing you, to
3 question PG&E's expert. And then I'll make a decision based
4 upon the evidence.

5 So that's a long way of saying the Kisak report, as
6 good as it is or as weak as it is, is what you've laid out as
7 your case. And I will consider that at some time, but not
8 until PG&E has an opportunity to rebut it.

9 So once again, I'm not trying to pressure you, and I'm
10 not going to give you a deadline of five minutes from now, but
11 I'm going to tell you that you'll have to make that decision,
12 under circumstances that I believe would be perfectly safe.
13 I'm not a doctor any more than you are, but I am a senior
14 citizen, as I guess you are. And I don't take lightly what the
15 virus threatens me and my family and you and your family and
16 everyone.

17 So if you can have the water company come out and
18 check the water, or you can have somebody come out if you had
19 an emergency to deal with in your house, similarly, you can
20 have a PG&E person come out and inspect.

21 So once again, if you want to think about this, talk
22 to your husband and others, that's fine. We'll have another
23 continuance. If you tell me that's fine, you'll do it, then
24 I'll let you and Mr. Rupp work out the details. And if you
25 tell me no, I won't do it, then I will tell you that I will

PG&E Corporation and Pacific Gas and Electric Company
1 have to disallow your claim.

2 MS. GREEN: Your Honor, I have one more question. I
3 agree with what you're saying. We will consider that. But
4 also too, is that the same consideration for the three-by-five
5 hole that's cut in my driveway, or is that for just inside the
6 garage?

7 THE COURT: Well, the hole, the three-by-five is in
8 the driveway, right? It's not inside the house.

9 MS. GREEN: Right. But I'm saying if you cut it off
10 where you disallow, does that disallow the three-by-five hole
11 that's cut in my driveway that started the issue in the first
12 place, or is it the both of them, the garage and the driveway?
13 We know PG&E damaged the driveway.

14 THE COURT: Well, Mr. Rupp, do you -- I mean, I've
15 been thinking about the cracking in the driveway and the
16 hearings we've had. Where do you think -- if Ms. Green says,
17 no, I'm not going to allow the driveway -- the garage to be
18 inspected, what does that do with the three-by-five hole that
19 is physically there, and there's no question that PG&E created
20 that hole? The question is whether they're liable for it.

21 MR. RUPP: Your Honor, that is a very good question.
22 I think I'd have to talk to my client about what we would
23 expect the outcome to be in that instance. I know that that
24 hole is from the work done by PG&E's contractor. And I think
25 we've stated that PG&E's contractor has tried to -- made an

1 PG&E Corporation and Pacific Gas and Electric Company
2 offer to repair it before that was turned down by the Greens.

3 So --

4 MS. GREEN: Excuse me, Mr. Rupp. I do not agree with
5 you.

6 THE COURT: Okay.

7 MS. GREEN: I asked him to --

8 THE COURT: Let him. Hold on, Ms. Green. Ms. Green,
9 don't interrupt him. Let him finish and then --

10 MS. GREEN: All right.

11 MR. RUPP: So is the question essentially -- I just
12 want to be sure I've got the proposal right. And if the
13 outcome is the Greens will refuse a property inspection, would
14 that mean that the Court would allow the claim just to fix the
15 three-by-five patch?

16 THE COURT: Let me reframe the question, and then I'll
17 let you answer; of course, I will. But let's pretend,
18 magically, that there are no cracks in your driveway and inside
19 the garage, and therefore we didn't have all this discussion.
20 What is the portion -- what's left of your damage claim, in
21 terms of dollars, for the three-by-five hole? I don't know
22 from the papers, but you tell me, what is the economic cost to
23 repair that hole today; do you know?

24 MS. GREEN: I have an estimate from Ergeon, and this
25 is a company -- a established company here in the city of
Oakland, and they do that kind of work. I had their people

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1 come out and look at it. They did an estimate, which is every
2 thirty days, you know, you get a quote, but the quote changes.
3 They gave me -- I think the last time we had spoke, and he did
4 an estimate, he says that because of the way the cracks are in
5 that driveway, because of that patch -- okay, the patch is
6 what's causing destabilization in the cracks, you know. And so
7 he said they would need to replace the driveway because, even
8 if you patched it, the cracks are not going to stop --

9 THE COURT: Wait, Ms. Green, I thought you were asking
10 me about three-by-five hole.

11 MS. GREEN: This is about the three-by-five hole. You
12 asked me about the cost and everything else too. The last time
13 he gave me an estimate, I believe it was something around about
14 11,000 to replace that driveway. And that's not the first time
15 that driveway was replaced. That was technically somewhat of a
16 new driveway that we had put in. And then the new --

17 THE COURT: Ms. Green, I must tell you, I'm very
18 confused now, because what you're now telling me is that you
19 could fix the driveway for 11,000 dollars. And you told me
20 before it was 40,000. Then you said maybe it's going to be
21 20- --

22 MS. GREEN: I'm look --

23 THE COURT: -- and now you're talking 11-, so I mean,
24 I don't know what to make of what you're saying.

25 MS. GREEN: I'm looking at an estimate that's here in

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1 front of me. This one was dated -- this is one of the
2 estimates that Ergeon gave me, but the -- and this was as of
3 November 28. The complete price that he gave, he broke down to
4 do the driveway, and one price to do the garage. That's what
5 the difference -- the difference in the price was. And that
6 was 20,864 dollars to do the complete driveway and the garage
7 floor. And he --

8 THE COURT: Well, I'll tell you what. Ms. Green, I'm
9 not going to waste my time or yours on this. You have to make
10 a decision, and I'll give you a deadline to make a decision.
11 Are you going to allow PG&E to come in and inspect the entire
12 garage and driveway? And if the answer is yes, then I'm going
13 to let you and Mr. Rupp work out the details. If the answer is
14 no, then I'm going to disallow your claim, and you can
15 assert -- you can amend the claim if you believe there -- or
16 you can explain to Mr. Rupp and separately make a statement of
17 what you believe the damage would be before replacing the
18 three-by-five or repairing the three-by-five. But if the
19 answer is to replace or to repair the three-by-five hole you're
20 going to do the whole driveway anyway, PG&E has a right to come
21 out and inspect the driveway, if that's the issue.

22 So do you need a short period of time, or do you need
23 until another hearing? How much time would you like to decide
24 whether you're going to let them come in and inspect the garage
25 and driveway?

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1 MS. GREEN: Your Honor, my husband is here also.

2 MR. GREEN: Judge, may I speak, please?

3 THE COURT: Yes, sir.

4 MR. GREEN: How are you doing today?

5 THE COURT: Fine, thank you, Mr. Green.

6 MR. GREEN: I've been letting my wife actually handle
7 all of this stuff that's been going on with the driveway. One
8 of the things is that the three-by-five that they have in the
9 driveway, even if they came in just to repair that alone it
10 would be discolored on driveway because there's a stripe down
11 the middle in the square there. The older driveways, if you've
12 noticed, that area they cut wouldn't resolve the problem.

13 THE COURT: I understand. But you still have to tell
14 me whether you're going to allow PG&E to inspect.

15 MR. GREEN: Well, at this point, I think that, if they
16 can do it in phases, where they come out and inspect the
17 driveway, that -- we'll start with that first.

18 THE COURT: No, this is not --

19 MR. GREEN: That way --

20 THE COURT: No, this isn't going to work for phases.
21 This is an opportunity, safety, safe precautions, masks,
22 vaccinations, you and your wife do not have to be physically in
23 the garage where whoever the people are that Mr. Rupp's client
24 wants, they come there on an agreed time, they are there for a
25 short period of time, they look at it, they make their own

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1 assessment, and they leave.

2 MR. GREEN: Okay. You said thirty minutes. You
3 said --

4 THE COURT: I don't know. I don't know. But I can't
5 imagine more it's more than --

6 MR. GREEN: They said two hours.

7 MS. GREEN: They said two to three hours.

8 THE COURT: I mean, I don't know that. I can't
9 possibly know what it takes. I can't imagine they're out
10 there doing it to waste time, but I can't put a time limit on
11 them if it's reasonable.

12 MR. GREEN: Okay. So --

16 MR. GREEN: We are willing to consider it. And we
17 will --

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1 restaurant or a hospital or a court, and they leave. They
2 come, they go, and they leave. And then they make their
3 assessment, and they try to settle this case or not.

4 I'll tell you what, I'm going to make this --

5 MR. GREEN: We could consider it. We'll --

6 THE COURT: I'm going to give you a deadline to
7 consider it.

8 Ms. Parada, when is our next date? Our next PG&E is
9 the 18th of February -- of January?

10 THE CLERK: January 11th, Your Honor.

11 THE COURT: I'm going to continue this to January
12 11th. And Mr. Green --

13 MR. RUPP: Your Honor?

14 THE COURT: -- you need to make a decision on this
15 inspection thing before the end of the year, before December
16 31. And --

17 MR. RUPP: Your Honor?

18 THE COURT: Yes, sir.

19 MR. RUPP: If I may, I apologize, but I will not be in
20 town on the 11th. There's a hearing on the 18th, just a week
21 later. If the Court could continue it to that date, that would
22 be --

23 THE COURT: Okay. But I'm still -- Mr. and Ms. Green
24 have to make a fundamental decision which, in my opinion, they
25 can make in five minutes. But I'm not going to pressure them.

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1 Mr. and Ms. Green, I'm going to continue this hearing
2 again to the 18th. You have until December 31, last day of the
3 year, to make a decision on what I've just described for
4 physical inspection of your driveway and garage, but not inside
5 your house, and not involving you personally in any kind of
6 contact with the inspectors, and something that you're
7 satisfied with that does not threaten your home or anyone
8 coming into your home. There are plenty of ways to make this
9 happen safely.

10 And I will, again, tell Mr. Rupp to make sure the
11 people who come there are masked, and they can prove, if asked
12 by the Greens, or anyone acting on their behalf, to just prove
13 that they have vaccinations, and that they would physically
14 inspect the driveway and the garage and then depart.

15 And Mr. and Ms. Green, you have until December 31 to
16 make that decision. You can do it informally by telling Mr.
17 Rupp. If Mr. Rupp is informed that the Greens will not
18 consent, then my response is your claim will be disallowed, but
19 you will be allowed to amend the claim to demonstrate what it
20 would take to repair what we call the three-by-five hole.

21 You also have an opportunity to -- I mean, if there is
22 the inspection, then I'll just assume that the parties will
23 work out something that is mutually acceptable. And for now,
24 we'll continue the hearing to the January 18th, 10 o'clock
25 date. And if --

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1 MR. GREEN: Your Honor?

2 THE COURT: If the inspection is scheduled, but hasn't
3 happened yet, or the inspection has happened, but PG&E hasn't
4 formally put together its response, then we'll have a further
5 continuance. If you have any more questions, go ahead. But
6 I'm ready to --

7 MR. GREEN: Yeah, I'm just very concerned about -- we
8 probably will be considering the inspection, but --

9 THE COURT: What's that?

10 MR. GREEN: -- the time frame in which you put on --
11 there is no time frame they could be on our property. I mean,
12 he sent us an email for two hours.

13 MS. GREEN: Three -- two to three hours.

14 MR. GREEN: Two to three hours.

15 THE COURT: Okay. Okay.

16 MS. GREEN: I --

17 THE COURT: Mr. Green, it's just a two-hour maximum,
18 two hours maximum, period. End of story. I have nothing to
19 talk about. Two hours.

20 MR. GREEN: So we don't leeway on this? No way.
21 We're not getting into (audio interference) with this one
22 because --

23 THE COURT: What's that?

24 MR. GREEN: I said I don't think that we will be
25 treated fairly with this here. We should have a time frame

PG&E Corporation and Pacific Gas and Electric Company
1 when PG&E can be around our property. And that's all I'm
2 asking the jury to consider at this point.

3 THE COURT: Mr. and Ms. Green, I'm going to --

4 MR. GREEN: I was going to --

5 THE COURT: -- I'm going to interrupt you because
6 you're going -- this is going crazy. You're asserting a claim
7 for 40,000 dollars and maybe would compromise for less.

8 MS. GREEN: Forty?

9 THE COURT: I am not going to tell PG&E they have to
10 be under some unreasonable time period to make an inspection.
11 So I'm using my judgment. It's two hours on site. And if
12 that's still too long for you, then let's just get over with it
13 and I will disallow your claim. It's that simple.

14 MS. GREEN: Thank you, Your Honor. Also, Your Honor,
15 our claim is not for 40,000 dollars; it's below 30,000 --
16 40,000 dollars.

17 THE COURT: Ms. Green, it doesn't matter what it is at
18 the moment. It is what it is. So I believe it was originally
19 asserted in the 40,000-dollar range, and at some point, Ms.
20 Green, I believe you indicated a willingness to settle for a
21 lesser amount. That's fine. But the point is, you are still
22 welcome to pick up the phone and call Mr. Rupp and compromise
23 this thing and be done with it. I can only use the legal
24 system the way I'm using it.

25 So one more time, you have until December 31 to make a

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1 decision about the two-hour inspection. And if you choose not
2 to do that, Mr. Rupp should submit a form of order that
3 disallows your claim, and the reason your claim will be
4 disallowed will be because you have chosen not to allow PG&E
5 need to inspect property.

6 MS. GREEN: Your Honor, I have one more question.

7 THE COURT: Well, let me finish, please, and I'm --
8 then I'm wrapping this up. If I disallow the claim, you will
9 be allowed a time, a reasonable, time to amend it, to correct
10 it, to show whatever you believe you're entitled to, to repair
11 the three by five inch -- excuse me -- three by five foot hole
12 that was placed in your driveway that we know about.

13 MS. GREEN: Your Honor, please --

14 THE COURT: I'm not going to take any more time on
15 this today. Last question. Go ahead.

16 MS. GREEN: Could we extend out our time a bit more,
17 because we would like time to -- to find an attorney at this
18 point -- to consider finding an attorney to represent us at
19 this time.

20 THE COURT: Well, then you find that attorney by
21 December 31 and make a decision or December -- January 18th for
22 the hearing, Ms. Green.

23 MS. GREEN: Okay. Thank you.

24 THE COURT: All right. Happy holidays. Good luck.

25 MS. GREEN: Um-hum.

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1 THE COURT: And my free advice is that you work it out
2 for the inspection so this can have an amicable resolution.

3 MS. GREEN: All right.

4 THE COURT: All right. I'm going to conclude the
5 Green matter.

6 Mr. Rupp, for our purposes, we're continuing it to
7 January 18th at 10. And if the Greens choose not to permit the
8 inspection, you should prepare a form of order that is
9 consistent with my ruling that disallows their claim, but
10 allows them to amend, to assert damages limited to their claim
11 for the three by five hole in the property that's been
12 discussed previously. Okay?

13 MR. RUPP: Very good, Your Honor.

14 THE COURT: Okay, thank you very much. All right.

15 We'll go to the Greenberg matter.

16 MR. RUPP: Your Honor, I'll stay on for the Greenberg
17 matter. (Audio interference).

18 THE COURT: Counsel isn't joining you?

19 MR. RUPP: Yeah, Jennifer Dodge should be joining.

20 THE COURT: Oh, okay; oh, okay.

21 Mr. Lapping, good morning.

22 MR. LAPPING: Good morning. Happy holidays.

23 THE COURT: Same to you. All right, we're going to
24 wait for Ms. Dodge then.

25 All right, Ms. Dodge, can you state your appearance?

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1 Good morning.

2 MS. DODGE: Good morning, Your Honor. Jennifer Dodge
3 on behalf of the reorganized debtors.

4 THE COURT: So since some time ago, whenever we had
5 the last hearing, I did review all the claims in their detail.
6 And I understand Mr. Lapping, why you wanted to have a separate
7 hearing. And it is the same physical address. It is a
8 different set of facts. I understand that. But for the
9 reasons I stated, I still think it's efficient to do it
10 together. So I'm prepared to go ahead and schedule a trial --
11 I mean schedule deadlines for a hearing here, if that's what
12 you want. You're the lawyer for the claimant, Mr. Lapping.
13 What do you want me to do, given that background?

14 MR. LAPPING: Well, Your Honor, I guess -- I mean, if
15 you're convinced that this all should be in one hearing, that's
16 what we'll do.

17 We did have some preliminary things that we wanted to
18 do before we set a final hearing. With respect to the
19 refrigerator claim, my client has gone to the City of -- the
20 Town of Fairfax and obtained some records, including
21 communications that the Town had with a representative of PG&E,
22 that casts -- shows that there may have been some work done at
23 the neighboring premises during the relevant time frame when he
24 was out of town. These were not produced in response to
25 discovery.

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1 And people can miss emails, but what we want to do is
2 file a motion to compel PG&E to produce its file, its claim
3 file on the refrigerator claim on the grounds -- under Rule
4 26(b) (3) (A), that even though they're asserting work product,
5 there's factual material in there that's current, that was in
6 existence at the time. And you that is -- and it may help us
7 prove the critical aspect of the refrigerator claim.

8 THE COURT: What do you think it'll prove? Just so I
9 understand. The timing, the date, or the --

10 MR. LAPPING: Yes, PG&E has produced a schedule, very
11 brief, that says that the only work that was done in or near
12 the property was done in March of 2016.

13 THE COURT: Right. Right.

14 MR. LAPPING: And we think we can find evidence that
15 there's outages and such that occurred prior to that. We have
16 an email that indicates that there was a prior outage. It
17 doesn't give the date or the range. And so what we'd like to
18 do is file a motion to compel to both get additional documents
19 and to get that claim filed on the grounds that there was --

20 THE COURT: Oh, I understand what you want to do. You
21 want --

22 MR. LAPPING: Okay.

23 THE COURT: -- but you want to establish some evidence
24 that you believe that PG&E might have that would be consistent
25 with Mr. Greenberg's rendition of the facts as to when the

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1 damage occurred.

2 MR. LAPPING: Correct.

3 THE COURT: Okay, Ms. Dodge are you aware of this
4 issue, and are you in a position to say whether it's something
5 we're going to have to fight about? Or do they get it?

6 MS. DODGE: Well, thank you, Your Honor. First, I
7 want to say that we -- the Court allowed Mr. Greenberg to do
8 limited discovery on the refrigerator claim. This is the 77335
9 claim. And we answered the written discovery and produced
10 documents, and that was done, I believe it was back in June;
11 and now it's December.

12 And Mr. Lapping's talking about filing a motion to
13 compel. And from our view, a motion to compel at this stage is
14 much too late. If he wanted to file a motion to compel that
15 should have been done a long time ago.

16 Two, we would vigorously oppose any motion to compel
17 PG&E's claim file. As I have told Mr. Lapping, the claims
18 department works at the direction of the legal department.
19 Those claim files are privileged work product. And this claim
20 for me is just particularly frustrating because Mr. Greenberg
21 filed a claim against PG&E prior to the bankruptcy, back in
22 2016 when this occurred, and PG&E did its due diligence back
23 then, looked at its records, said that there was no outage
24 during that February 14th to February 21st time period when he
25 was out of town.

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1 And the documents that we produced -- and again, I
2 went back and asked our PG&E people to double-check this to
3 make sure; and they said no, the scheduled outage had been
4 scheduled for earlier, but then it was pushed back, and it was
5 actually completed March 16th to 17th.

6 And I produced -- PG&E produced documents to that
7 effect to Mr. Lapping. And Mr. Greenberg continues to insist
8 that there must have been some sort of outage. And in fact,
9 Mr. Lapping asked for an additional eight-week extension to
10 respond to our objection so he could gather additional
11 evidence. And we granted that to him.

12 And here we are now in December. And he's still
13 saying there might be something. I might have an email.
14 There's no date. I mean, it just gets to a certain point
15 that --

16 THE COURT: Slow down for a minute.

17 MS. DODGE: Yeah.

18 THE COURT: What if there was an unscheduled outage?
19 Would that have been discovered? I mean, you just made
20 reference to a scheduled outage. What if there was --

21 MS. DODGE: Right.

22 THE COURT: -- an unscheduled --

23 MS. DODGE: Right. No, we looked to see -- it's on
24 the circuit known as the San Rafael 1108. We checked the
25 records to see if the outage -- if there was any outage on that

PG&E Corporation and Pacific Gas and Electric Company
1 circuit between February 14th and February 20, when Mr.
2 Greenberg was out of town and then came home. There was no
3 outage, scheduled or not.

4 THE COURT: But what if Mr. Greenberg has
5 independently learned from the City that there was something
6 that suggests that that was the case? Then what am I supposed
7 to do about it; pretend that it doesn't -- he can't have that
8 information?

9 MS. DODGE: Well, no. He can have whatever
10 information he wants. But I mean, as Mr. Lapping just stated,
11 he said he has an email from the Town of Fairfax that
12 references a prior outage, but it doesn't have any date or
13 range. And again, I mean, I'm all for full disclosure of
14 information. He can do whatever he wants. But it just gets
15 frustrating for me, Your Honor, after a while.

16 THE COURT: Okay, well, Ms. Dodge, you are not
17 familiar with my procedure. Mr. Lapping, you've been around me
18 for a long time. I don't do formal motions to compel until
19 there's a meet-and-confer among counsel in an attempt to
20 resolve it informally.

21 So if -- have you shared this email with Ms. Dodge,
22 Mr. Lapping?

23 MR. LAPPING: No, Your Honor.

24 THE COURT: Okay, well --

25 MR. LAPPING: Preparing --

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: I think --

2 MR. LAPPING: -- things. But the eight weeks we took
3 was the period --

4 THE COURT: No, no. No, no. I don't want to go there.

5 MR. LAPPING: Okay.

6 THE COURT: What I want you to do is I want you to
7 comply with my posted procedures for discovery disputes and see
8 if you can resolve it. And if that isn't resolvable, then you
9 can make your motion. That's all. So you --

10 MR. LAPPING: That's fine, Your Honor.

11 THE COURT: -- if you share the email with her and
12 say, what about this, she can -- and if -- she can say, I'm not
13 going to give it to you or it's privileged. Or she can say
14 what she wants.

15 But Ms. Dodge, I'm not going to sit here and decide
16 that we're not going to have discovery that could have been
17 done earlier because we have no agreed discovery cut-off.
18 There's no end of discovery. And if you believe -- I mean,
19 look, the fact of the matter is, if there is evidence that is
20 not privileged, it should be produced, period. So --

21 MS. DODGE: I agree.

22 THE COURT: -- follow my procedures on that one.

23 Now what -- is there anything else, Mr. Lapping?
24 Should we just still set this over for further hearings or -- I
25 mean further pre-trial or shall I set a trial for everything

PG&E Corporation and Pacific Gas and Electric Company
1 together?

2 MR. LAPPING: Well, Your Honor, I would -- I would ask
3 that -- I'm going to assume that we're going to meet and
4 confer, and that we're not going to be able to get to the
5 finish line on that. We might, but we'll see.

6 So why don't we set a hearing for a possible motion to
7 compel that I would -- after meeting and conferring, in
8 February, let's say, and then a further hearing, I guess, in
9 March or April for the -- well, actually, I've got to be
10 careful here. I'm going to be out on April 1st for a week.
11 So --

12 THE COURT: So let's try -- without pinning your date
13 down, let's assume that you either can get what you want from
14 Ms. Dodge formally or informally, what else do you need to do
15 to be ready to go to trial? You have to go -- you have to put
16 on the case first, so --

17 MR. LAPPING: Right.

18 THE COURT: -- so --

19 MR. LAPPING: -- we will have --

20 THE COURT: I agree with -- I agree with you again.
21 The issue over the refrigerator is legally separate from the
22 issue over the work under the deck and the gas rerouting and
23 the tree. But the same lawyers, the same history, in fact.

24 And I haven't -- I don't know Mr. Greenberg, but he
25 certainly is prolix, and if he ends up describing the story the

PG&E Corporation and Pacific Gas and Electric Company

1 way he describes his declaration, it'll be a lot of story to
2 tell.

3 But what would you take to put on your case in chief?
4 Would it be more than a couple of hours or would it be several
5 days? What do you expect?

6 MR. LAPPING: Oh, Your Honor, I think it would be a
7 couple of days, because I agree there's a long saga here
8 that -- and we have to bring in a tree expert. So I think at
9 least the better part of two days.

10 THE COURT: But the saga -- the saga largely is
11 irrelevant. The story is either the refrigerator conked out
12 and spilled the stuff out or it didn't. And the trees and the
13 deck did or didn't have problems.

14 MR. LAPPING: Right.

15 THE COURT: So what I'm getting at --

16 MR. LAPPING: Well, Your Honor -- Your Honor, getting
17 to my argument, which is the refrigerator is one set. I was
18 talking about the other claim. That's what I think is --

19 THE COURT: No, no.

20 MR. LAPPING: -- going to take a couple of days.

21 THE COURT: No. But what I'm getting at is that --
22 well, let me back up. Ms. Dodge, you're the one that persuaded
23 me to hear these matters preliminarily together. Do you
24 believe they should be tried separately or together?

25 MS. DODGE: I believe they could be tried together.

PG&E Corporation and Pacific Gas and Electric Company

1 Your Honor. I think it just makes sense rather than setting
2 separate hearing dates. I under --

3 THE COURT: No, but the only -- the commonality is Mr.
4 Greenberg as the percipient witness and you two lawyers. I
5 mean, I presume your defense and any defense witnesses, anybody
6 who comes in and says, the stuff was all over the -- there was
7 no outage, that has nothing to do with what Mr. Greenberg
8 complains about for the rerouting of the gas line. The
9 rerouting of the gas line, we have proof.

10 So it's going to be different witnesses. The only
11 commonality, as I said, it's Mr. Greenberg and you two lawyers.
12 But I still think it -- it still seems economical to have one
13 trial. And I guess you're agreeing with me, Ms. Dodge. And --

14 MS. DODGE: I am.

15 THE COURT: So Mr. Lapping, it's kind of -- it's kind
16 of one trial that has two phases, right? We have the
17 refrigerator set of the trial, followed by the tree and deck
18 set of the trial, right?

19 MR. LAPPING: Yes. Yes, Your Honor. Absolutely.

20 THE COURT: All I meant is that Mr. Greenberg's
21 declaration gives a long tale that is largely interesting but
22 irrelevant to the issue of whether PG&E has any money to pay.
23 That's all. I'm not faulting him. I'm just saying I don't
24 want to hear that at trial.

25 But Mr. Lapping, again, apart from your personal

1 PG&E Corporation and Pacific Gas and Electric Company
2 schedule, when do you think you would be ready to put on your
3 trial? Are we talking about six more months of discovery or
4 just the normal preparation, and we're likely to have a trial
in April?

5 MR. LAPPING: Your Honor, I think late April would be
6 preferable for us.

7 THE COURT: So what if I scheduled a two-day trial in
8 late April?

9 MR. LAPPING: And there would be a scheduling order
10 with some deadlines and rules, and off we go.

11 THE COURT: Right. But you don't anticipate any
12 motions, I take it, any substantive motions.

13 MR. LAPPING: No, not on the tree claim.

14 THE COURT: Ms. Dodge again, putting aside the
15 discovery dispute, is there any reason why you couldn't be
16 ready to defend the trial in the end of April? Or are there
17 any dispositive motions that you anticipate would be brought as
18 to either of the claims? I mean, treating the two gas-related
19 claims as one dispute and the refrigerator as the other
20 dispute, is there any is there any -- are there any pre-trial
21 motions you anticipate that are dispositive?

22 MS. DODGE: I can't -- well, I don't know if I want to
23 commit to something yet. I haven't actually thought about that
24 in terms of there be any type of motion in limine. Or are you
25 talking about something different?

PG&E Corporation and Pacific Gas and Electric Company

1 THE COURT: Well, motions in limine is not usually a
2 dispositive motion unless you knock out witnesses.

3 MS. DODGE: Right.

4 THE COURT: I mean, I'm talking about summary
5 judgment.

6 MS. DODGE: Right.

7 THE COURT: This doesn't sound like summary judgment
8 in either one of these. It sounds like it's all or nothing on
9 the facts.

10 MS. DODGE: Right. Yeah, no. I think in terms of a
11 dispositive motion, I think here the issue is primarily fact-
12 dependent. And because of that --

13 THE COURT: Yes.

14 MS. DODGE: -- I don't see that you're -- the Court
15 would be inclined to grant a summary judgment.

16 THE COURT: Well, it's not that I'd be inclined to,
17 it's just that I wouldn't be allowed to, because --

18 MS. DODGE: Right.

19 THE COURT: -- obviously the first thing the person
20 says is there are facts in dispute. And then I go, well, then
21 there's no summary judgment.

22 MS. DODGE: Right.

23 THE COURT: Look, I'm going to schedule a two-day
24 trial the end of April, now and then I'm also going to set a
25 pre-trial a few weeks prior just to talk about things. And if

PG&E Corporation and Pacific Gas and Electric Company
1 we have to adjust the trial, I don't anticipate a problem.

2 I will tell you that Judge Blumenstiel and I believe
3 one of my other colleagues is starting to think about hybrid
4 partially in-court trials. But I am not. And with the latest
5 Omicron issues, I'm not anticipating resuming any kind of in-
6 court trials.

7 So this would be a Zoom trial in April. And I will
8 issue a trial scheduling order that is consistent with the
9 procedures that I think need to be followed. And my personal
10 schedule is not at all difficult.

11 So when I say we'll set a trial date, it's not in
12 concrete from my point of view. And we'll take another look at
13 this in, say, March. So what I'm going to do is set a pre-
14 trial, another trial scheduling in March, with a trial in
15 April.

16 And Mr. Lapping if there's -- if it's necessary to
17 have a motion to compel, there's plenty of time to take that up
18 between now and then.

19 So working backwards, Ms. Parada, can you give me two
20 days in late April that we could do a trial?

21 THE CLERK: April 18th and 19th.

22 THE COURT: Are those dates convenient for counsel?

23 MR. LAPPING: Yes, Your Honor.

24 THE COURT: Ms. Dodge?

25 MS. DODGE: I'm just checking my schedule. Yes, those

1 PG&E Corporation and Pacific Gas and Electric Company
2 dates should work; April 18th to 19th.

3 THE COURT: Yes. And Ms. Parada, in April for -- I'm
4 sorry, in March for a further scheduling conference?

5 THE CLERK: We have March 15th as a PG&E all-purpose
6 date, or did you want to set it separately, Your Honor?

7 THE COURT: No, we could do it then. March 15th?

8 March 15th available, let's say, at 11 o'clock, for both of you
9 counsel?

10 MR. LAPPING: Yes, Your Honor.

11 MS. DODGE: Yes, Your Honor.

12 THE COURT: Mr. Rupp, are you going to be involved in
13 this -- in the trial? Let me -- or Ms. Dodge will have that, I
14 presume.

15 MR. RUPP: No, Your Honor. Ms. Dodge is -- Ms. Dodge
16 is in charge here.

17 THE COURT: Okay. All right. So I'm going to -- I'm
18 setting a two day trial that combines the objections to the
19 three Greenberg claims -- you know the numbers of them -- by
20 Zoom, and a scheduling conference on March 15th at 11.

21 And I will have issued the scheduling order before
22 then, in case there are any questions about or disagreements
with what I'm doing.

23 Is there any appetite to try to mediate this matter
24 through the system? PG&E here -- there has (audio
25 interference) out there.

PG&E Corporation and Pacific Gas and Electric Company

1 MS. DODGE: We did try to mediate, Your Honor,

2 THE COURT: Yeah, okay. I guess that's right. I
3 guess you did.

4 Okay, then, unless either of you have any questions,
5 I'll wrap it up with that and wish you happy holidays and good
6 luck.

7 MR. LAPPING: All right. Thank you, Your Honor.

8 MS. DODGE: Thank you, Your Honor.

9 THE COURT: Thank you, Ms. Dodge.

10 MR. RUPP: Happy holidays, Your Honor.

11 THE COURT: Thank you Mr. Rupp.

12 (Whereupon these proceedings were concluded at 11:09 AM)

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C E R T I F I C A T I O N

3

4 I, Sharona Shapiro, certify that the foregoing transcript is a
5 true and accurate record of the proceedings.

6

7 Shanna Shapley

8

9

10 /s/ SHARONA SHAPIRO, CET-492

11

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15

16 Date: December 22, 2021

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